

Message Text

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ACTION IO-14

INFO OCT-01 ISO-00 IOE-00 L-03 SS-15 NSC-05 SP-02 H-01
PRS-01 SSO-00 NSCE-00 CIAE-00 INR-07 NSAE-00
INRE-00 EB-08 OMB-01 TRSE-00 AF-10 ARA-10 EA-07
EUR-12 NEA-10 JUSE-00 /107 W
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INFO USUN NEW YORK IMMEDIATE 5496

C O N F I D E N T I A L GENEVA 6322

DEPT FOR L-FELDMAN, IO-FRANK; NEW YORK-AMB YOUNG

E.O. 11652: GDS
TAGS: ECOSOC, EGEN, UN, XF, PORG
SUBJ: 63RD ECOSOC: AGENDA ITEM 17: INTERNATIONAL AGREEMENT
ON ILLICIT PAYMENTS

1. ECONOMIC COMMITTEE IS SCHEDULED TO BEGIN CONSIDERATION
OF THIS AGENDA ITEM ON THE AFTERNOON OF JULY 27. U.S. DEL
PLANS TO SPEAK EARLY IN DEBATE AND TO ANNOUNCE THAT WE WILL
BE PRESENTING A DRAFT RESOLUTION.

2. PREVIOUS REPORTS OF EC-9 COORDINATED OPPOSITION TO OUR DRAFT
HAVE PROVED INACCURATE. AT JULY 27 MEETING THEY AGREED ONLY THAT
THE WORKING GROUP SHOULD BE OPEN ENDED. FRANCE AND ITALY OPPOSED
ANY COMMITMENT TO A SPECIFIC CONFERENCE DATE; DENMARK, NETHERLANDS
AND FRG ACCEPTED A SPECIFIC DATE BUT WOULD PREFER 1979; AND UK
ATTEMPTED TO PLAY MIDDLE MAN ROLE WITHOUT CLEARLY REVEALING ITS
HAND. IN ANY EVENT, WE DOUBT THAT EC-9 WOULD BLOCK A CONSENSUS
SUPPORTING OUR RES. OTHER WEO'S SEEM TO BE ON OUR SIDE.

3. AS PREVIOUSLY REPORTED, SOVIETS TOLD US THAT THEY WILL NOT
BLOCK A CONSENSUS BUT WILL MAKE CLEAR IN EXPLANATION OF VOTE
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THEIR POSITION THAT AN INTERNATIONAL AGREEMENT SHOULD BE AN
INTEGRAL PART OF THE CODE OF CONDUCT.

4. THUS THE KEY TO OBTAINING CONSENSUS APPROVAL OF OUR RES
REMAINS THE ATTITUDE OF THE G-77. THE JULY 26 MEETING OF THE
G-77 DID NOT PRODUCE A FINAL DECISION BUT SET UP AN INFORMAL
WORKING GROUP (ALGERIA, JAMAICA, MEXICO, IRAN, NIGERIA AND

PAKISTAN) TO CONSIDER THE ISSUE.

5. IN INFORMAL CONVERSATIONS WITH THE REPRESENTATIVES OF OUR MAJOR OPPONENTS IN THE G-77, THEY HAVE IDENTIFIED THE FOLLOWING AS THEIR MAJOR CONCERNS: (A) A LINK BETWEEN THE AGREEMENT ON ILLICIT PAYMENTS AND THE PROBLEM OF CORRUPT PRACTICES, (B) A LINK BETWEEN PROGRESS ON THE AGREEMENT AND PROGRESS ON THE CODE OF CONDUCT, (C) A LINK WITH ILLICIT PAYMENTS IN SOUTHERN AFRICA AND (D) TIME FRAMEWORK FOR THE CONFERENCE. THEY ADVISED US THAT IF WE WERE TO TABLE OUR ORIGINAL DRAFT, THE POSSIBILITY OF ANY NEGOTIATIONS WERE CLOSED AND THAT ALL ACTION WOULD BE DEFERRED UNTIL THE 32ND UNGA. THEY SUGGESTED THAT THEY HAD NO INTEREST IN ENTERING INTO DETAILED NEGOTIATIONS GIVEN THE SHORT TIME LEFT AND THE PRESS OF OTHER BUSINESS, BUT WOULD BE WILLING TO CONSIDER ANY PROPOSALS WE MIGHT HAVE TO SUGGEST WHICH WOULD MEET THEIR INDICATED CONCERNS.

6. FROM MISSION'S POINT OF VIEW, WE THINK THAT IT SHOULD BE POSSIBLE TO SUGGEST MUTUALLY ACCEPTABLE LINKAGES BETWEEN THE AGREEMENT AND THE PROBLEM OF CORRUPT PRACTICES AND THE CODE OF CONDUCT IN THE TEXT OF THE AGREEMENT SINCE THIS IS IMPLICIT IN THE BACKGROUND RESOLUTIONS. THE QUESTION OF A LINK TO ILLICIT PAYMENTS IN SOUTHERN AFRICA SHOULD BE ANSWERED BY THE INCLUSION OF RELEVANT PROVISIONS IN THE DRAFT TEXT ITSELF. THE CRITICAL QUESTION THEREFORE REVOLVES AROUND OUR POSITION ON THE TIME FRAMEWORK FOR THE DIPLOMATIC CONFERENCE. THE QUESTION OF DATE
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ALSO RELATES TO THE LINKAGE WITH THE CODE IN THAT THE G-77 VIEW OUR SEEKING A SPECIFIC DATE FOR THE CONFERENCE AS DE FACTO GIVING GREATER PRIORITY TO THE AGREEMENT AS OPPOSED TO THE CODE.

7. IN U.S. DEL'S VIEW, THE FOLLOWING OPTIONS ARE NOW OPEN TO US:
(A) TO MAINTAIN OUR INSISTENCE ON A SPECIFIC TIME FRAMEWORK FOR THE CONFERENCE WITH THE PROBABLY RESULT THAT ALL REPEAT ALL ACTION WILL BE DEFERRED TO THE 32ND UNGA;
(B) TO SEEK G-77 APPROVAL OF THE FIRST PART OF THE WORKING GROUP'S RECOMMENDATION (I.E., TO CONTINUE, EXPAND, ETC., THE WORKING GROUP ITSELF) AND DEFER ONLY THE QUESTION OF A DIPLOMATIC CONFERENCE TO THE UNGA; (COMMENT: G-77 HAVE SHOWN NO INTEREST AT ALL IN THE POSSIBILITY. WE SUSPECT THE PROBLEM IS THAT THEY SEE IT AS GIVING IN TO US ON THE SIZE OF THE WORKING GROUP AND ON THE "DRAFTING" OF AN AGREEMENT WITHOUT GETTING ANYTHING IN RETURN.)
(C) TO DROP OUR INSISTENCE ON A SPECIFIC TIME FRAME FOR THE CONFERENCE AND TRY TO WORK OUT LANGUAGE MEETING THE OTHER G-77 CONCERNS. (COMMENT: WITH NO GUARANTEES OF SUCCESS.)

8. FROM OUR PERSPECTIVE, WE DO NOT SEE A SPECIFIC TIME FRAME FOR THE CONFERENCE AS A CRITICAL ISSUE, ESPECIALLY GIVEN THE PROBLEMS IT HAS OCCASIONED. UNCONTESTED DIPLOMATIC CONFERENCES HAVE BEEN

APPROVED WITHOUT ANY REFERENCE TO DATES (E.G., ECOSOC RES 604 (XXI) ON RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS). IN PRACTICAL TERMS, A DATE FOR THE CONFERENCE IS ONLY SYMBOLIC AND CAN BE AVOIDED EITHER BY FOOT DRAGGING ON THE SUBSTANCE 94, FOR THAT MATTER, BY SIMPLY BEING CHANGED LATER. FINALLY, WE WOULD ARGUE THAT THE IMPETUS TO WORK OF THE WORKING GROUP WILL REFLECT THE POLITICAL COMMITMENT OF THE U.S. RATHER THAN A TARGET DATE.

9. ACCORDINGLY, WE STRONGLY RECOMMEND THAT THE DEPT ACCEPT OPTION (C). WHILE FALLING SHORT OF OUR DESIRES, IT MIGHT THUS BE POSSIBLE TO PRESERVE THE ESSENTIAL ELEMENTS, NAMELY A COMMITMENT TO THE CONVENTION AND TO THE DIPLOMATIC CONFERENCE.

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10. DEPT SHOULD BE FULLY AWARE OF THE SITUATION HERE. THE G-77 IS ESSENTIALLY PREPARED TO PUT OFF ALL DECISIONS TO THE 32ND UNGA. THERE ARE ONLY A SMALL COTERIE OF G-77 LEADERS WHO ARE KNOWLEDGEABLE OR INTERESTED IN THIS ISSUE AND THEY ARE PERSONALLY FULLY COMMITTED IN TERMS OF THEIR TIME TO OTHER ISSUES (HABITAT, RESTRUCTURING, PREPARATIONS FOR THE 31ST UNGA, ETC.) WHICH ARE FAR MORE CRITICAL TO THEM. AND FINALLY, THERE IS CONSIDERABLE MOMENTUM TOWARD WINDING UP THIS ECOSOC AS SOON AS POSSIBLE (E.G., ECONOMIC COMMITTEE PLANS TO FINISH ITS BUSINESS BY THE END OF THIS WEEK). ACCORDINGLY, WE WILL NOT BE ABLE TO ENGAGE THE G-77 IN A DRAWN OUT NEGOTIATING PROCESS. NOR CAN WE EXPECT THEM TO TAKE THE INITIATIVE IN RESPONDING TO OUR PROPOSAL. WE BELIEVE THAT THE ONLY WAY OF POSSIBLY SALVAGING THIS EXERCISE IS FOR US TO TAKE DECISIVE ACTION IMMEDIATELY IN TERMS OF SUBMITTING A REVISED PROPOSAL WHICH GOES AS FAR AS POSSIBLE IN MEETING THEIR STATES CONCERNS.

11. OUR SUGGESTIONS ON A REVISED PROPOSAL TRANSMITTED SEPTTEL.
VANDEN HEUVEL

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Message Attributes

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